

REMARKS

Claim Rejection 35 USC 101

The Examiner rejected claims 1-13, 17-30, 32, 37-72, 75, 77-114, 115-130, 138-150, 153 and 155-174 under 35 USC 101 as being directed to non-statutory subject matter. The Applicant has amended claims 1, 114 and 116 to add the language suggested by the Examiner to indicate that these claims are implemented on a computer system or a computer readable medium. As the remainder of the claims cited by the Examiner are dependent on one of claims 1, 114 and 116, the remainder of the claims incorporate the amendment.

Claim Rejection- 35 USC 103(a)

The Examiner rejected claims 1-174 under 35 USC 103(a) as unpatentable over Arbuckle in view of Slotznick. The Examiner characterized Arbuckle as disclosing all the elements of Applicant's claim 1 except for the ability to provide a plurality of participants with the ability to effect choices about the care of said participants and choices determined by said participants. The Examiner cited the Slotznick reference as an intelligent agent to allow the participant to effect choices about the care of said participants and choices determined by said participants.

The Applicant respectfully disagrees with the Examiner's characterization of the Arbuckle reference. The Arbuckle reference does not teach the problem addressed by the Applicant in the current application. The Applicant seeks to provide a system to allow a plurality of participants the ability to make decisions that directly impact the end stages of their life. In that regard, each participant is given the ability to specify their wishes to a number of parameters that impact the end stages of their lives. The Arbuckle reference is not concerned with allowing a participant to make decisions that impact the end stages of life, but is instead directed to decisions that impact the events that occur after the life of the participant is over (that is the notification of death to a predetermined group of individuals). Therefore, the Arbuckle reference fails to disclose the problem addressed by the Applicant. Applicant respectfully suggests the inclusion of the Arbuckle reference in the 35 USC 103(a) rejection is not appropriate.

The Applicant respectfully disagrees with the citation of the Slotznick for the proposition used. The United States Supreme Court held that the recognition of a

problem and the solution to that problem may be patentable even if the solution to the problem, once the problem is recognized, may be obvious. *Eibel Process Co v. Minnesota & Ontario Paper Co.*, 261US 45 (1923); *In re Spinnable*, 405 F.2d578, 160 USPQ 237 (CCPA 1969). Therefore, the use of an intelligent agent to implement the solution to the problem (i.e, the system of Slotznick) should not render the invention as a whole obvious as the problem itself and the solution to the problem was not suggested by the prior art.

Furthermore, the Applicant has amended claims 1, 114 and 116 to specify that the information set and the end-of-life information relates to the care of the participant and that the information is determined by the participant. The Examiner has suggested that Arbuckle does disclose certain aspects disclosed by the Applicant. For example, in section 5(D), the Examiner states that Arbuckle discloses a system where end-of-life information includes an authorization to rely on a copy of an original document. The Arbuckle section cited 9-67 does not describe such a system to make decisions that relate to the care of the participant. Furthermore, in section 5(E), the Examiner states that Arbuckle discloses the use of medical information such as a portion of a laboratory report. The Arbuckle reference actually discloses the reliance of an organ donation form, which is not a portion of a laboratory report. Therefore, the Applicant respectfully suggests the Arbuckle and Slotznick references do not teach or suggest the limitation of Applicant's claims.


Applicant respectfully requests that the requested amendments be entered and that a timely Notice of Allowance be issued in this case.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. Gregory Peterson', with a large, stylized initial 'T' and a long horizontal flourish extending to the right.

T. Gregory Peterson
Attorney for the Applicant
Reg. No. 45,587

OF COUNSEL



Bradley Arant Rose & White LLP
1819 Fifth Avenue North
Birmingham, Al 35203-2104
(205) 521-8084